



**Montana Department of Commerce
Tenant Based Section 8 Program
Administrative Plan**

Effective Date – 07/01/2015

ORGANIZATION AND STRUCTURE OF THE PHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the **Montana Department of Commerce** for the jurisdiction of **State of Montana**.

The Housing Assistance Bureau, Housing Division, Montana Department of Commerce (MDOC) is the Montana State Public Housing Agency (PHA), administering the HUD Section 8 Housing Assistance Program (Moderate Rehabilitation, and tenant based Housing Choice Vouchers Program) to provide affordable, decent, safe, and sanitary housing to low income families residing or wishing to reside in Montana.

THE HCV PARTNERSHIPS

To administer the HCV program, the PHA enters into a contractual relationship with HUD. (Consolidated Annual Contributions Contract). The PHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, the PHA, the contracted agencies, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

MDOC requires local field agencies to operate the Section 8 Program in accordance with their MDOC contract, HUD regulations (CFRs and Federal Registers), HUD Notices, HUD Memos, this MDOC Administrative Plan, MDOC Policy Memos, and guidance provided by MDOC program personnel. MDOC provides local field agents with copies of relevant CFRs and Federal Registers, HUD Notices and HUD Memos per request and also available at the MDOC website at <http://housing.mt.gov>. As changes are made to this Administrative Plan, they are distributed to field agents to replace outdated sections. When MDOC adopts or changes minor policies not included in the Administrative Plan, the policies will be distributed to field agents in memo format or by e-mail.

- a. **Action for Eastern Montana** serves sub-state planning districts 1, 2, and 3, including Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Treasure, Valley, and Wibaux counties.
2030 North Merrill Avenue
P.O. Box 1309
Glendive, MT 59330
Phone (800) 227-0703 or (406) 377-3564
Fax (406) 377-3570.
- b. **District 4 HRDC** serves sub-state planning district 4, including Blaine, Hill, and Liberty counties.
2229 5th Avenue
Havre, MT 59501
Phone (800) 640-6743 or (406) 265-6744
Fax (406) 265-1312.
- c. **Opportunities Incorporated** serves sub-state planning district 5, including Cascade, Chouteau, Glacier, Pondera, Teton, and Toole counties.

905 1st Ave. N.
P.O. Box 2289
Great Falls, MT 59403
Phone (800) 927-2270 or (406) 761-0310
Fax (406) 761-0363.

- d. **District 6 HRDC** serves sub-state planning district 6, including Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, and Wheatland counties.
300 First Avenue North, Suite 203
Centennial Plaza
Lewistown, MT 59457
Phone (800) 766-3018 or (406) 535-7488
Fax (406) 535-2843.
- e. **District 7 HRDC** serves sub-state planning district 7, (except for that portion of the district lying within 10 miles of the City of Billings), including Big Horn, Carbon, Stillwater, Sweet Grass, and Yellowstone counties.
7 N. 31st St
P.O. Box 2016
Billings, MT 59103
Phone (800) 443-1411 or (406) 247-4710
Fax (406) 248-2943.
- f. **District 9 HRDC** Serves sub-state planning district 9, including Gallatin, Meagher, and Park counties.
32 South Tracy Avenue
Bozeman, MT 59715
Phone (800) 332-2796 or (406) 587-4486
Fax (406) 585-3538.
- g. **Community Action Partnership of Northwestern Montana** serves sub-state planning district 10, including Flathead, Lake, Lincoln, and Sanders counties.
214 Main Street
P.O. Box 8300
Kalispell, MT 59904
Phone (800) 344-5979 or (406) 758-5477
Fax (406) 752-6582 or (406) 257-7283.
- h. **District 11 HRDC** Serves sub-state planning district 11, including Mineral, Missoula, and Ravalli counties.
1801 South Higgins
Missoula, MT 59801
Phone (406) 728-3710
Fax (406) 728-7680.
- i. **Human Resources Council of Butte** serves sub-state planning district 12, including Beaverhead, Deer Lodge, Granite, Madison, Powell, and Silver Bow counties.
25 W. Silver St.
P.O. Box 3486
Butte, MT 59701
Phone (406) 533-6855
Fax (406) 533-6885
- j. **Helena Housing Authority** serves sub-state planning district 8, including Broadwater, Jefferson, and Lewis & Clark counties.
812 Abbey

Helena, MT, 59601

Phone (800) 378-7981 or (406) 442-7970 or (406) 442-7981

Fax (406) 442-0574

- k. **Housing Authority of Billings** serves the area within 10 miles of the city limits of Billings, Montana.

2415 First Ave. North

Billings, MT 59101

Phone (406) 245-6391

Fax (406) 245-0387

UPDATING AND REVISING THE PLAN

MDOC will review this administrative plan at least once a year and update as necessary to comply with changes in HUD regulations. Any changes to the MDOC administrative plan prepared by the Housing Assistance Bureau Chief must be approved by the Housing Division Administrator prior to implementation.

Chapter 1

APPLICATIONS, WAITING LIST AND TENANT SELECTION – [24 CFR 982.202](#)

THE APPLICATION PROCESS

PHA Policy

To be placed on the waiting list, an interested family must complete an application form. Application forms are available at MDOC or any of the contracted agent offices throughout the state, or will be mailed on request. MDOC allows applications to be submitted through the web. The web site is: <http://housing.mt.gov/about/section8/apply.mcp.x>. All paper applications must be mailed to MDOC, Housing Assistance Bureau, 301 South Park Avenue, P.O. Box 200545, Helena, MT, 59620-0545. Applications will be date stamped when received at MDOC. Families experiencing difficulty in completing application forms will be assisted by either MDOC staff in Helena by phone or letter, or by the local contracted agent, if further assistance is needed.

The applicant must specify the jurisdiction (agency) he/she wishes to apply to at the time the application is submitted to MDOC. Applicants are not required to select the jurisdiction they reside in. The applicant will be required to conduct all transactions (i.e. briefing; interviews, paperwork etc.) with the agency listed on their wait list application. The jurisdiction can only be changed in writing prior to being contacted by the contracted agency for briefing.

A participant must remain leased in the applied jurisdiction for one year before requesting a transfer.

PLACEMENT ON THE WAITING LIST

PHA Policy

The PHA will send written notification of the preliminary eligibility determination after receiving a complete application. Applicants at this time will be provided the opportunity to complete the information on form HUD-92006, Supplement to Application for Federally Assisted Housing.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list for which they qualify, according to the date and time their complete application is received by the PHA.

VERIFICATION OF PREFERENCE STATUS

PHA Policy

MDOC does not utilize preferences, only time and date of application.

MANAGING THE WAITING LIST

PHA Policy

A separate waiting list for all eligible families wishing to participate in the Section 8 program will be maintained by sub-allocation area in the state (Local Contract Field Agent area). No applicant will appear on the overall list for more than one sub-allocation area. All qualifying applications will be processed in the order received, and listed in order of date of receipt, and time of computer entry.

Mod Rehab units are project based with specific unit sizes at specific locations in the state. Applicants will not be penalized for refusing a Mod Rehab unit if they desire to wait for a Voucher subsidy. Families will be removed from the list only if they refuse both forms of assistance.

Mod Rehab participant families are not participants in the Vouchers program. Mod Rehab families must be chosen from the wait list the same as any other family to be issued a Voucher, excluding instances covered in the Montana Mod Rehab Local Preference portion of this section. For a Mod Rehab participant family to be assisted in the Voucher program, all of the following conditions must be met:

- a. The family's application date must place the family at the top of the wait list;
- b. The family has satisfied the initial 12 month term of their Mod Rehab lease;
- c. The family must request, in writing, transfer to the Voucher Program;
- d. The family must give the landlord a proper 30 day notice, or be released from the lease; and
- e. The family must not have adverse program actions pending against them and must not owe any money to any PHA including MDOC.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

OPENING AND CLOSING THE WAITING LIST - [24 CFR 982.206](#)

PHA Policy

The PHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The PHA will give public notice by publishing the relevant information in suitable media.

REPORTING CHANGES IN FAMILY CIRCUMSTANCES

PHA Policy

While the family is on the waiting list, the family must inform the PHA of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing according to the following:

Changes in applicant family address or telephone number must be reported to MDOC, in writing, by the family as soon as the change occurs, but not longer than **30** calendar days after the move. If the family does not report changes in address, which cause the local contracted agent to be unable to reach them within one documented contact attempt, the local contracted agent will request that MDOC remove the family from the wait list through the disposition process. MDOC will determine final eligibility in these cases.

UPDATING THE WAITING LIST - [24 CFR 982.204](#)

Purging the Waiting List

PHA Policy

A purge will be conducted annually.

To update the waiting list, the PHA will send an update request via mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the PHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the PHA not later than 15 days from the date of the PHA letter.

If the family fails to respond within 15 days, the family will be removed from the waiting list without further notice.

If the notice is returned undeliverable, the applicant will be removed from the wait list without further notice.

If a family is removed from the waiting list for failure to respond, the PHA may reinstate the family if it is determined the lack of response was due to PHA error, or to circumstances beyond the family's control. The family must notify MDOC within 60 days of the removal from the waitlist.

SELECTION FOR HCV ASSISTANCE

Order of Selection

PHA Policy

Families will be selected from the waiting list on a first-come, first-served basis according to the date and time their complete application is received by the PHA.

Families that qualify for a specified category of program funding (targeted funding) may be selected from the waiting list ahead of higher placed families that do not qualify for the targeted funding. However, within any targeted funding category, applicants will be selected on a first-come, first-served basis according to the date and time their complete application is received. Documentation will be maintained by the PHA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the PHA does not have to ask higher placed families each time targeted selections are made.

PHA Policy

The PHA will notify the family in writing when the family has reached the top of the wait list. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- All documents that must be provided at the interview, including information about what constitutes acceptable documentation

If a notification letter is returned undeliverable, the applicant will be removed from the wait list without further notice.

Chapter 2

VOUCHER ISSUANCE

Voucher Term - [24 CFR 982.303](#)

PHA Policy

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless MDOC grants an extension.

Extensions of Voucher Term - [24 CFR 982.303\(b\)](#)

PHA Policy

Voucher holders are required to provide the local field agent with a request for lease approval, or request an extension of the voucher term in writing, prior to expiration of the initial voucher term. If approved, extensions will be granted for 30 days at a time with a maximum of 120 days

The PHA will approve additional extensions only in the following circumstances:

- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the family's control, as determined by the PHA. Following is a list of extenuating circumstances that the PHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
 - Serious illness or death in the family
 - Whether the family has already submitted requests for tenancy approval that were not approved by the PHA
 - Whether family size or other special circumstances make it difficult to find a suitable unit
 - Any request for an additional extension must include the reason(s) an additional extension is necessary. The contracted agency and/or MDOC may require the family to provide documentation to support the request in writing.

Suspensions of Voucher Term - [24 CFR 982.303\(c\)](#)

PHA Policy

When a Request for Tenancy Approval and proposed lease is received by the contracted agency, the term of the voucher will not be suspended while the contracted agency processes the request.

Expiration of Voucher Term

PHA Policy

If an applicant family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), MDOC will require the family to reapply for assistance. If an RTA was submitted prior to the expiration date of the voucher and is subsequently disapproved by the contracted agency and/or MDOC (after the voucher term has expired), the family will be required to reapply for assistance.

After the expiration of the voucher term or any extension, MDOC will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

Chapter 3

MDOC VASH ACTION PLAN

Initial Term of the HCV

PHA Policy

Recognizing the challenges that HUD-VASH participants may face with their housing search, HUD-VASH vouchers must have an initial search term of at least 120 days. Any extensions, suspensions, and progress reports will remain under the policies in the PHA's administrative plan, but will apply after the minimum 120-day initial search term.

Initial Lease Term

PHA Policy

To provide a greater range of housing opportunities for HUD-VASH voucher holders, initial leases may be less than 12 months.

SHELTER PLUS CARE PROGRAM

Violent Offenders

PHA Policy

MDOC will evaluate, on a case by case basis, whether an applicant can be deemed eligible for housing assistance if on a violent offender list. MDOC will take into consideration whether extra support that may be necessary is available to the applicant.

FAMILY AND HOUSEHOLD - [24 CFR 982.201\(c\)](#)

PHA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must notify the PHA if the family's composition changes within 30 calendar days.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a separation or divorce, the PHA will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

CONTINUOUSLY ASSISTED

PHA Policy

The PHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by the PHA.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173.
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101.

APPLICANTS

DENIAL OF ASSISTANCE - [24 CFR 982.552](#) and [24 CFR 982.553](#)

PHA Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, **within the past three years**, the family may be denied assistance. .

- Drug-related criminal activity, defined as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.
- Violent criminal activity, defined as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.
- In addition, any household member appearing on the violent offender registry may be denied assistance.

- Any criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.
- Any criminal activity that may threaten the health or safety of the property owner(s), property management staff, or persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent).
- Any household member who has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

MDOC will prohibit admission to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.

PARTICIPANTS

TERMINATION OF ASSISTANCE AND TENANCY - [24 CFR 982.552](#) and [24 CFR 982.553](#)

PHA Policy

MDOC may terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. Currently engaged in is defined as any use of illegal drugs during the previous six months.

MDOC may terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

MDOC will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

MDOC will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

MDOC may terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

MDOC may terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program.
- Any family member has been evicted from federally-assisted housing in the last three years for drug-related criminal activity.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family moves after receiving a 3 day pay or quit from the owner.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

- The family has breached the terms of a repayment agreement entered into with the PHA.
- A participant appears on the violent offenders' registry.
- A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

Abusive or violent behavior towards contracted agency and/or MDOC personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, MDOC may consider alternatives and other factors such as whether the culpable family member no longer resides in the unit and will not be permitted to visit or to stay as a guest in the assisted unit. Upon consideration of such alternatives and factors, MDOC may, on a case-by-case basis, choose not to terminate assistance.

Chapter 5

Owner Participation

PHA Policy

MDOC encourages owners of suitable units throughout the state to participate in the housing choice voucher program including areas that are outside any designated low income or minority concentrated areas. Printed program information is available in each field agency throughout the state for distribution to owners of rental properties. In addition, MDOC also has a page on the Housing Division's website regarding the Tenant Based Section 8 Program.

Chapter 6

Family Claiming Illegal discrimination – [24 CFR 982.304](#)

PHA Policy

Families that claim illegal discrimination has prevented them from leasing a suitable unit will be given information on fair housing, including but not limited to HUD Form 903, Fair Housing Complaint form, and local fair housing enforcement agencies.

Chapter 7

Providing Tenant Information to Owners – [24 CFR 982.307\(b\)\(i\) and \(ii\)](#)

PHA Policy

MDOC and field agents will provide the following information about tenants to prospective landlords:

Current and prior address of family

Name, address, and phone number of all known landlords at the family's current and prior addresses

Chapter 8

DISAPPROVAL OF OWNERS IN THE HCV PROGRAM – [24 CFR 982.306](#)

PHA Policy

MDOC may not approve a request for tenancy if MDOC and/or the contracted agency become aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1337 Act (42 U.S.C. 1437F);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others.

Upon consideration of such circumstances, on a case-by-case basis, MDOC may choose to approve an owner.

MDOC also has the right to terminate the Housing Assistance Payment (HAP) contract with an owner for breach of the contract as stipulated in Part B of the contract, HUD Form 52641.

Chapter 9

SUBSIDY STANDARDS – [24 CFR 982.402](#)

PHA Policy

MDOC will assign one bedroom for each two persons within the household, except in the following circumstances:

One additional bedroom for every two remaining family members and essential persons, which allows the family to choose that family members six years of age or older are not required to share a bedroom with family members of the opposite sex, that children are not required to share a bedroom with other adult family members, and that children of the same sex with more than 6 years of age difference are not required to reside in the same bedroom. Children under the age of two, of either sex, may share a bedroom with parents for purposes of meeting the occupancy standards. Children over the age of two are not required to share the same bedroom with a single parent head of household, unless that is family choice.

MDOC will consider granting an exception per a reasonable accommodation request for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

MDOC will notify the family of its determination within 20 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

CHAPTER 10

Temporarily Absent Family Members – [24 CFR 982.312](#)

PHA Policy

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member.

Chapter 11

FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY - [24 CFR 982.315](#)

Family Break-up

PHA Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

In the absence of a judicial decision, or an agreement among the original family members, MDOC will determine which family retains their placement on the waiting list, or will continue to receive assistance. In making its determination, MDOC will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.

Joint Custody of Dependents

PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family. Please note that a child cannot be assisted in more than one household without a waiver from HUD.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, MDOC will make the determination based on supporting documents such as court orders.

Caretakers for a Child

PHA Policy

The approval of a caretaker is at the owner and PHA's discretion and subject to the owner and PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the PHA will take the following actions.

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will

not be considered a family member until a determination of custody or legal guardianship is made.

- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases MDOC will extend the caretaker's status as an eligible visitor.
- (3) At any time custody or guardianship has been legally awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

Chapter 12

INFORMAL REVIEWS FOR APPLICANTS – [24 CFR 982.554](#)

PHA Policy

MDOC will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes:

- Denying placement on the PHA waiting list;
- Denying or withdrawing a voucher;
- Refusing to enter into a HAP contract or approve a lease; and
- Refusing to process or provide assistance under portability procedures.

NOTE: An applicant may request a **hearing** as it relates to ineligible immigration status - see 24 CFR 5.514. See MDOC policies regarding hearings.

Informal Review Procedures

A request for an informal review must be made in writing and submitted to MDOC by the close of the business day, no later than 20 days from the date of notice of the PHA's denial of assistance.

MDOC will schedule and send written notice of the informal review.

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision made by MDOC.

The person conducting the review will make a recommendation to MDOC, but MDOC is responsible for making the final decision as to whether assistance should be granted or denied.

Criteria for Deciding to Deny Assistance

Evidence - [24 CFR 982.553](#)

PHA Policy

Evidence of criminal activity includes, but is not limited to:

- Any conviction for drug-related or violent criminal activity within the past 3 years.
- Any arrests for drug-related or violent criminal activity within the past 3 years.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 3 years.
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

MDOC will use the preponderance of the evidence standard for making all admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances - [24 CFR 982.552](#)

PHA Policy

MDOC may consider all relevant circumstances prior to making its decision, including but not limited to, including but not limited to:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, or stalking
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

MDOC will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to reside in the assisted unit.

After admission to the program, the family must present evidence of the former family member's current address upon PHA request.

Notice of Eligibility or Denial

PHA Policy

In rendering a decision, MDOC will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. The PHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, MDOC will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

MDOC will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed to the applicant and his or her representative.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

The family will be notified in writing within 20 days of a decision to deny assistance.

If, based on a criminal record or sex offender registration information, the applicant family appears to be ineligible; the PHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 20 days to dispute the accuracy and relevance of the information. If the family does not contact the PHA to dispute the information within that 20-day period, the PHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

CHAPTER 13

INFORMAL HEARINGS FOR PARTICIPANTS – [24 CFR 982.555](#)

PHA Policy

MDOC will only offer participants the opportunity for an informal hearing when required according to regulations.

Informal Hearing Procedures

PHA Policy

In cases where the PHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of MDOC.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of the MDOC's hearing procedures.

A request for an informal hearing must be made in writing and delivered to MDOC either in person or by first class mail, by the close of the business day, no later than 20 days from the date of the MDOC's termination letter decision or notice to terminate assistance.

The PHA must schedule and send written notice of the informal hearing to the family.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, MDOC may request documentation of the "good cause" prior to rescheduling the hearing.

Pre-Hearing Right to Discovery - [24 CFR 982.555](#)

PHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of MDOC's documents no later than 10 days prior to the scheduled hearing date.

MDOC must be given an opportunity before the hearing to examine any family documents that are directly relevant to the hearing at the Helena, Montana office. Whenever a participant requests an informal hearing, MDOC will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 10 days prior to the scheduled hearing date.

Attendance at the Informal Hearing

PHA Policy

Hearings may be attended by a hearing officer and the following applicable persons:

- MDOC representative(s) and any witnesses for the PHA;
- The participant and any witnesses for the participant;
- The participant's counsel or other representative;
- Any other person approved by the PHA as a reasonable accommodation for a person with a disability;

MDOC will reimburse the requesting participant for only the participant's mileage or transportation expenses (at applicable state rates for state employees) to and from the hearing location. All other costs incurred by the participant requesting the hearing, such as lodging, meals, legal representation, are to be borne by the requesting participant.

Conduct at Hearings

PHA Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Informal hearings will be conducted by a hearing officer appointed by MDOC. The hearings officer will regulate the hearing, and ensure that all proceedings are recorded.

Structure of the Hearing:

- 1) The hearing officer will call the hearing to order. At any time during the hearing, the hearing officer may interrupt testimony to ask pertinent questions, or clarify testimony.
- 2) All persons present will be identified, and the purpose for their presence verified.
- 3) Evidence will be presented in the following order:
 - A. MDOC staff will provide an overview of the reasons for the hearing, and copies of pertinent documents relating to the MDOC decision, as well as any other testimony MDOC wishes to introduce.
 - B. The participant will provide testimony and documentation for consideration at the hearing, and rebut MDOC testimony or documents.
 - C. MDOC may question the participant about testimony and documentation presented by the participant, and rebut participant testimony or documents.
 - D. The hearing officer may summarize his/her understanding of the position of both sides to insure that all information from the hearing is complete and clear.
 - E. When the hearing officer is satisfied that both sides have presented sufficient evidence to render a finding, the hearing officer will close the hearing.

Evidence - [24 CFR 982.555](#)

PHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. Categories of evidence include:

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence: evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the MDOC or the family fail to comply with the discovery requirements described above, the hearing officer may refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer's Decision - [24 CFR 982.555](#)

PHA Policy

In rendering a decision, the hearing officer will consider the following matters:

PHA Notice to the Family: The hearing officer will determine if the reasons for the PHA's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the PHA and the family were given the opportunity to examine any relevant documents in accordance with PHA policy.

PHA Evidence to Support the PHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the MDOC, after the hearing. The report will contain the following information:

Hearing information:

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the PHA representative; and
- Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

Order: The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

Procedures for Rehearing or Further Hearing

PHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the MDOC will take effect and another hearing will not be granted.

It shall be within the sole discretion of the MDOC to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

PHA Notice of Final Decision - [24 CFR 982.555](#)

PHA Policy

The PHA will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision". A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the MDOC's file.

PHA Policy

MDOC will not provide a transcript of a recorded hearing.

CHAPTER 14

PAYMENT STANDARDS - [24 CFR 982.503](#)

PHA Policy

MDOC will review the appropriateness of the payment standards on an annual basis when the new FMR is published and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" MDOC will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: The PHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The PHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more

than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the PHA will consider increasing the payment standard. In evaluating rent burdens, the PHA will not include families renting a larger unit than their family unit size.

Quality of Units Selected: The PHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

Changes in Rent to Owner: The PHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit Availability: The PHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: The PHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on November 1st of every year.

If the PHA has already processed reexaminations that will be effective on or after November 1st, and the effective date of the payment standards is November 1st, the PHA will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the PHA at the time the reexamination was originally processed.

Unit-by-Unit Exceptions - [24 CFR 982.503\(c\)\(2\)\(ii\)](#)

PHA Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, MDOC must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

Chapter 15

RENT REASONABLENESS - [24 CFR 982.507](#)

METHODOLOGY

PHA Policy

The contracted agency will collect and maintain data on market rents in the contracted agency's jurisdiction. Information sources include newspapers, realtors, market surveys,

inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. The data will be updated in MDOC's third party software on an ongoing basis for rental information that is more than 12 months old.

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The contracted agency will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, MDOC may make adjustments to the range of prices to account for these differences

The adjustment must reflect the local market. Variances in units may not require adjustments to rents. (e.g. the presence or absence of a garbage disposal, dishwasher).

Adjustments may vary by unit type (e.g. a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g. it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g. first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \488 .

The contracted agency will notify the owner of the approved rent, based upon its analysis of comparable rents.

If the owner disputes the proposed rent, they may submit information about other comparable units in the market area. The contracted agency will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the contracted agency's request for information or the owner's request to submit information.

CHAPTER 16

SPECIAL HOUSING TYPES - [24 CFR 982 Subpart M](#)

PHA Policy

ALLOWABLE SPECIAL HOUSING TYPES:

To insure maximum tenant choice in selection of rental units in the MDOC tenant based vouchers program, tenants will be allowed to choose among the following types of special housing:

- Manufactured Home (including rental space) Housing, and
- Homeownership

In addition to the above types of housing, MDOC will consider acceptance of the following types of housing on a case by case basis:

- Congregate Housing

- Shared Housing
- Cooperative Housing
- Group Home Residence

DISALLOWED SPECIAL HOUSING TYPES:

SRO (Single Room Occupancy) housing is not allowed, as it requires HUD, local government and MDOC approval, as well as documentation of need for the units, and certification that the local government has inspected the properties and they meet local health and safety codes, which are more stringent than HQS. It is not in the best interest of the program to have competing inspection requirements. There are no HUD approved SRO facilities in the state at this time.

HOMEOWNERSHIP - [24 CFR 982.625 through 982.643](#)

PHA Policy

MDOC provides monthly homeownership assistance payments to eligible families.

MDOC requires the following:

- A minimum homeowner down payment of at least 3% of the purchase price for participation in the homeownership option. Of this 3%, at least 1% of the purchase price must come from the families' personal resources. Purchase price includes closing costs, so amounts put toward closing costs by the family are included in the 1% and 3% calculations;
- The family must have successfully completed an approved homeownership counseling course;
- A participant family in the MDOC Voucher program must have completed at least 1 year of participation in good standing;
- Voucher participants are not eligible for participation in the MDOC Homeownership Program, if any debt is owed to MDOC, or any other PHA or housing agency. Voucher participants who have owed MDOC or another PHA or housing agency money, and have fully repaid the debt prior to entering any portion of the homeownership program are eligible, if they meet all other eligibility requirements for homeownership.
- Participants porting in from another PHA interested in participating in homeownership must have completed at least 1 year in good standing in the other PHA jurisdiction. The participant family porting in does not have to meet another 1-year MDOC period.

SELECTION OF FAMILIES - [24 CFR 982.626](#)

PHA Policy

In selecting participant families for the MDOC Homeownership Program, the contracted agency will select according to their homeownership plan document, as approved by MDOC, who have successfully completed the homeownership counseling program.

In selecting participant families for the limited slots in the contracted agency's homeownership counseling program, preference will be given to elderly and

handicapped families, as well as to those families participating in the Family Self-Sufficiency program or the Individual Development Account program, all other factors being equal.

ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE - [24 CFR 982.629](#)

PHA Policy

The family must submit a sales agreement containing specific components to the contracted agency for approval within **one year** of their acceptance into the homeownership program (acceptance occurs after successful completion of homeownership counseling). The contracted agency will require that the family provide quarterly reports to monitor the family's progress in finding and purchasing a home.

HOMEOWNERSHIP COUNSELING - [24 CFR 982.630](#)

PHA Policy

MDOC requires that the counseling agency providing the contracted agency's counseling program shall either be approved by HUD or the program shall be consistent with the home ownership counseling provided under HUD's Housing Counseling program. The program must contain the suggested topics listed in 982.630(b). The contracted agency may require additional topics according to their approved homeownership plan.

Families may be required to participate in approved homeownership counseling programs on a continuing basis after acceptance into the Homeownership Program at the discretion of the contracted agency and/or MDOC, based on the performance of the homeownership participant.

FINANCING - [24 CFR 982.632](#)

PHA Policy

Financing options are limited to mortgage type financing that comply with secondary mortgage market underwriting requirements, or generally accepted private sector underwriting standards.

CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS - [24 CFR 982.633](#)

PHA Policy

The contracted agency will determine if the family meets all requirements of this section. The family must notify the contracted agency within 10 days of missing a mortgage payment. The family must attend foreclosure counseling within 30 days of missing a mortgage payment or homeownership assistance may terminate. 24 CFR 982.633

The family must notify the contracted agency in writing at least 30 days prior to any proposal to refinance the original purchase mortgage or of any proposal to encumber the property with secondary financing and obtain the contracted agency's written approval of such financing prior to executing any loan documents.

A family may not rent or lease any part of the premises without prior MDOC written consent.

HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES - [24 CFR 982.635](#)

PHA Policy

A monthly allowance for maintenance expenses and for costs of major repairs and replacement is calculated based on the contracted agency's approved homeownership plan.

PORTABILITY - [24 CFR 982.636](#), [982.637](#), [982.353\(b\) and \(c\)](#), [982.552](#), [982.553](#)

PHA Policy

MDOC will determine if homeownership is an option on a case by case basis due to the limited capacity of each contracted agency to provide this service.

MOVING WITH CONTINUED ASSISTANCE - [24 CFR 982.637](#)

PHA Policy

A family may not transfer, sell or assign an interest in the property without prior written consent from MDOC and the contracted agency.

A family must notify the MDOC and/or the contracted agency in writing at least 30 days prior to moving out of the house for a period of 30 days or longer or prior to any sale, transfer, assignment, lease or other form of alienation of the assisted property.

DENIAL OR TERMINATION OF ASSISTANCE - [24 CFR 982.638](#)

PHA Policy

MDOC may deny or terminate homeownership assistance in accordance with [24 CFR 982.638](#).

Chapter 17

Repayment of Family Debts – [24 CFR 792](#) and [PIH Notice 2010-19](#)

PHA Policy

Tenants are always required to report changes in family composition and income, in writing, within 30 days of the date of change using the required MDOC forms provided to all participants.

If a family owes money to MDOC as a condition of continued assistance, MDOC will require the family to repay the full amount. MDOC may at its sole discretion offer a repayment agreement to be returned within 15 days of receiving notice of the amount owed.

The first time a participant family fails to report any income increase, the family may not be terminated from assistance unless their failure to report results in unreported income of \$2,000 or more, since their entry into the program.

On a first time exception of unreported income less than \$2,000, the participant family may be allowed to enter into a repayment agreement without being terminated from the program.

The second time a participant family fails to report income or family composition change the participant family will be terminated from assistance and will not be allowed back to the MDOC program for a period of five (5) years.

OWNER OR FAMILY DEBTS TO THE PHA

PHA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, MDOC holds the owner or participant liable to return any overpayments to MDOC.

MDOC will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to MDOC, the PHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

REPAYMENT POLICY

Owner Debts to the PHA

PHA Policy

Any amount owed to MDOC by an owner must be repaid by the owner within 30 days of the MDOC's determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, MDOC will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the MDOC may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the PHA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, MDOC will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the PHA

PHA Policy

- If a tenant has unreported income less than \$2,000, MDOC may execute a repayment agreement which must be signed and returned to MDOC within 15 calendar days.
- If the unreported income is in excess of \$2,000 the tenant may be terminated.
- If the amount owed MDOC is greater than \$5,000, or fraud is involved, MDOC may turn the claim over to either the FBI or HUD Office of the Inspector General for investigation, or possible prosecution, as well as the State Auditor and or a private collection agency for collection.

- If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, MDOC will terminate the assistance upon notification to the family and pursue other modes of collection.
- If the repayment agreement has been determined to be in default MDOC may forward the agreement to a collection service.

Repayment Agreement - [24 CFR 792.103](#)

Execution of the Agreement

PHA Policy

In its sole discretion, MDOC may offer a tenant to enter into a repayment agreement.

The total amount is due and payable according to the repayment agreement.

Any repayment agreement between the PHA and a family must be signed and dated by MDOC and by the head of household and spouse/co-head (if applicable).

Due Dates

PHA Policy

All payments are due by the 1st or close of business on the 15th day of the month depending on the payment agreement terms.

Late or Missed Payments

PHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by MDOC, a delinquency letter will be sent to the family to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the MDOC will terminate assistance in accordance with the policies in this administrative manual and/or submit the tenant or owner to the collection agency.

No Offer of Repayment Agreement

PHA Policy

MDOC generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if the amount owed by the family exceeds Federal or State threshold for criminal prosecution.

CHAPTER 18

INTERIM REEXAMINATIONS - [24 CFR 982.516](#)

PHA Policy

Increases in Income

Families are required to report all changes of income/asset and change in family composition in writing within thirty (30) days of the change.

MDOC will not conduct interim increase in income except in following instances:

At the start and conclusion of the second 50 percent phase-in period of a family's Earned Income Disallowance.

If the family had previously been receiving zero income.

If it had been determined that a calculation error had occurred or the calculation was based on incorrect or incomplete information.

There is evidence or a pattern that the family is manipulating the program by a pattern of reducing income just prior to the annual recertification and increasing its income right after.

If it is discovered a family has a welfare sanction and the rent should not have been reduced and/or any regulatory error.

To admit a family to the Family Self Sufficiency Program.

When an FSS family requests an interim reexamination, any upward change in income will require an interim re-exam if the change results in an increase of escrow account.

When the family's total household income increases over 80 percent of the HUD-published Area Median Income (AMI).

Decreases in income

Participants are required to submit a written request for review of their rent calculation when they have a decrease in income and/or other changes that would reduce the amount of tenant rent, such as an increase in allowances or deductions.

MDOC will not process a reduction in family rent until it receives a written request and appropriate documentation of the changes.

In hardship cases, MDOC may process a rent reduction based on the family's certification on the MDOC Income and Family Certification form and obtain verifications later.

MDOC will review all family income and deductions to ensure the interim rent reduction is correct and based on all current family information.

Chapter 19

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

RESTRICTIONS ON MOVES – [24 CFR 982.355](#)

PHA Policy

Families (including all family members) who owe MDOC or other PHAs are not allowed to move or port, even if they are current on a repayment agreement, until the balance owed is paid in full unless MDOC grants an exception to this rule based on the family's circumstances ..

MDOC will deny a family permission to move on grounds that MDOC does not have sufficient funding for continued assistance if (a) the move is initiated by the family; (b) it can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) it can demonstrate that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within MDOC's jurisdiction as well as to moves outside it under portability

The PHA will create a list of families whose moves have been denied due to insufficient funding. When funds become available, the families on this list will take precedence over families on the waiting list. The PHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list.

The PHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

MDOC will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within MDOC's jurisdiction or outside it under portability.

MDOC will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the MDOC's jurisdiction.

MDOC will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection programs), to accommodate a change in family circumstances

(e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, MDOC will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities.

Chapter 20

ADMINISTRATIVE FEE RESERVE – [24 CFR 982.54\(d\)\(21\)](#)

PHA Policy

MDOC will not use administrative fee reserve funds from Montana Section 8 projects for a particular housing purpose without prior written approval of the Director, Montana Department of Commerce, Management Services Accounting and Fiscal Manager, and Housing Division Administrator.

Chapter 21

HOUSING QUALITY STANDARDS - [24 CFR 982.401](#)

PHA Policy

MDOC will follow HUD's regulatory guidelines and performance standards for conducting required HQS inspections and will not adopt additional requirements beyond HUD's HQS standards.

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

CHAPTER 22

SCREENING OF APPLICANTS – [24 CFR 982.307](#)

PHA Policy

The PHA will not conduct additional screening to determine an applicant family's suitability for tenancy.

MDOC will provide prospective owners only the information about the tenant that is required under federal regulation. MDOC will not provide information about the tenancy history of family members or about drug-trafficking by family members.

CHAPTER 23

Minimum Rent and Financial Hardship Exemption - [24 CFR 5.630](#)

PHA Policy

The minimum rent for this locality is \$50 for HCV and MOD Rehab programs.

MDOC will grant a financial hardship exemption from payment of minimum rent if the family meets the criteria pursuant to 24 CFR 5.630.

Utility Reimbursement - [24 CFR 982.514\(b\)](#)

PHA Policy

MDOC will make utility reimbursements to the family.

CHAPTER 24

FAMILY SELF SUFFICIENCY - [24 CFR 984](#)

SELECTION OF FSS FAMILIES - [24 CFR 984.203](#)

PHA Policy

The following are not eligible to participate in the MDOC FSS program:

- Families who were prior FSS program participants and were terminated from the FSS program for non-compliance with the FSS contract of participation;
- Families who were prior FSS program participants and were terminated from the Section 8 rental assistance program for non-compliance with the Section 8 program rules and policies or for violating any family obligations under the program;
- Families who were prior FSS program participants that withdrew from the FSS Program;
- Families who were prior FSS program participants that graduated from the FSS Program; Families who owe any PHA money in connection with Section 8 or public housing assistance.

Families will be selected for participation by the MDOC field agents in the following priority order, based on local needs and services to be provided:

- Participating families from the voucher program who are enrolled in local JOBS, JTPA, Employed Parent, Displaced Homemaker, or similar programs in which the MDOC field agent is actively involved, for a maximum of 50% of the allocated program slots, then other MDOC Section 8 program participant families showing interest in FSS from the field agent service area on a first-come, first-served basis.

INCENTIVES TO ENCOURAGE PARTICIPATION - [24 CFR 984.201\(5\)](#)

PHA Policy

MDOC offers the following incentives to encourage participation in the FSS program.

- Detailed information on agent supplied education, employment and training, and home ownership programs.
- Referral to support services like child-care, transportation and work/education related costs while enrolled in this program.
- An escrow account (like a savings account) for the duration of the program. The FSS escrow account funds are available when self-sufficiency is achieved.
- Detailed information about education and employment programs in Montana with easier and smoother access.

OUTREACH EFFORTS - [24 CFR 984.201\(6\)](#)

PHA Policy

Each MDOC field agency will schedule periodic public FSS orientation meetings for prospective participants and service providers. The purpose of the meetings will be to explain the FSS program and how it operates, responsibilities of the participants, and provide other information concerning the FSS program, as well as to collect the names of participating Section 8 families interested in participating in the FSS program.

The MDOC field agents will mail meeting invitations to voucher participants from their jurisdictional service area.

A list will be maintained at each field agent location naming voucher participant families interested in becoming FSS participants. Those not responding to the meeting invitation will be considered to have been contacted, and are not interested in the FSS program.

As participating Section 8 families enter local JOBS, Unemployed Parent, Displaced Homemaker, or similar programs in which the MDOC field agency is actively involved, they will be advised about the FSS program, and the field agent will add them to the list, if the family is interested.

The MDOC Family Self-Sufficiency information sheet will be presented to all minority and non-minority participants by local field agents at all reexaminations (if vacancies exist and services are available) to further encourage participation in the FSS program.

ACTIVITIES AND SUPPORT SERVICES - [24 CFR 984.201\(7\)](#)

PHA Policy

Complete lists of anticipated services and service providers were included in the 1992 MDOC FSS application. Actual services provided may not be similar to the initial needs in 1992, depending on local conditions and participant needs at the time the FSS Contract of Participation is signed.

The MDOC contracted agencies administering the FSS program are required to update FSS Pro of the supportive services they provide FSS participants. In addition, continual update of the participant's individual training and service plan in FSS Pro will provide documentation therefore eliminating the necessity of the agency to provide an annual report to MDOC.

METHOD FOR IDENTIFICATION OF FAMILY SUPPORTED SERVICES - [24 CFR 984.201\(8\)](#)

PHA Policy

Needs for services vary by locality and participant. Supportive services provided throughout the state will not be similar, due to limited availability to provide various types of supportive services at individual locations. Since individual needs of participating FSS families are of primary importance to success of the families (and the program), individual FSS programs will be developed for each participating family by the MDOC local field agency. The services provided each family will be based on individual family needs, and the local availability of support resources for the area where each unit is administered.

PROGRAM TERMINATION; WITHHOLDING OF SERVICES; AND AVAILABLE GRIEVANCE PROCEDURES - [24 CFR 984.201\(9\)](#)

PHA Policy

The termination of families participating in the FSS program will be governed by the provisions of the MDOC Administrative Plan and the FSS Contract of Participation.

A family enrolled in the FSS program may be terminated from the FSS Contract of Participation if they fail to satisfactorily perform the requirements under their individual FSS contract. The individual must report to the local FSS coordinator at least quarterly to update activities, progress on goals and individual training plan. If the participant has not contacted the coordinator for two consecutive quarters MDOC in coordination with the local FSS coordinator will notify the participant in writing of their termination from the FSS program.

MDOC will consider reasons for the family not being able to fulfill their obligations under the FSS contract, prior to determining whether to terminate the FSS contract.

A family terminated from participation in the FSS program may request an informal hearing within 20 days of being notified by MDOC of their termination. If the family voluntarily terminates their participation in the FSS program, they may not request a hearing for termination of the Contract of Participation, or for the right to access any funds in their escrow account.

ASSURANCES OF NON-INTERFERENCE WITH RIGHTS OF NON-PARTICIPATING FAMILIES - [24 CFR 984.201\(10\)](#)

PHA Policy

A family's election to not participate in the MDOC FSS program will not affect the family's admission to the Sec. 8 housing programs or the family's right to occupancy in accordance with its lease.

CERTIFICATION OF CORRINATION - [24 CFR 984.201\(12\)](#)

PHA Policy

The MDOC certifies that development of the services and activities under the FSS program has been coordinated with the JOBS Program, the programs provided under the JTPA, and any other relevant employment, child care, transportation, training, and education programs (e.g. Job Training for the Homeless Demonstration Program) by the MDOC contracted agency in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

FSS ACCOUNT - [24 CFR 984.305](#)

PHA Policy

The MDOC may, at its sole option, make an interim disbursement of a portion of the funds from the family's escrow account during the contract period for contract-related expenses if the family has successfully progressed in meeting interim contract goals, and needs a portion of the FSS account funds for purposes consistent with the contract, such as:

School tuition or other school costs

- a) Job training expenses
- b) Business start-up expenses
- c) A car, when public transportation is unavailable or inaccessible to the family, or for major car repairs, the later which will be determined on a case by case basis
- d) Emergency medical expenses.

INDIVIDUAL TRAINING AND SERVICE PLANS - [24 CFR 984.303](#)

PHA Policy

All individual training and services plans must be reviewed and updated at least annually for the head of the FSS family, and each adult member of the FSS family who elects to participate in the FSS program. The plans must include both interim and final goals. All goals (both interim and final) must include specific activities under each goal, timeframes, and the party responsible for each goal identified, to provide a clear understanding of the participant's goals and objectives. Plans must be written with enough detail to allow evaluation of performance by MDOC. All plans must include the mandatory interim and final goals. If receiving cash maintenance payments assistance, plans must include the mandatory interim goal of all family members becoming independent from all forms of state and federal cash maintenance payment assistance for at least one year prior to the expiration of the FSS Contract of Participation. All final goals must include obtaining and maintaining employment.

INFORMAL HEARINGS

PHA Policy

Informal Hearings will be conducted in accordance with the MDOC Admin Plan.

Chapter 25

MDOC PROJECT-BASED VASH (PBV)

INTRODUCTION

Since Fiscal Year (FY) 2008, Housing Choice Voucher program funding has provided rental assistance under a supportive housing program for homeless veterans authorized by Title 42, Chapter 8, Subchapter I, § 1437f(o)(19) of the United States Housing Act of 1937. The initiative, known as the HUD-VASH program, was initially authorized by the Consolidated Appropriations Act, 2008. Each annual HUD appropriation since 2008 has continued to authorize this program.

In addition, HUD has periodically made set-aside funding available for project-based HUD VASH vouchers (PBV). Applications for HUD's PBV set-aside funding are released to the public as federal appropriations allow.

The MDOC PBV program will result in a de-concentration of poverty and an expansion of housing and economic opportunities. The standards comply with the policy goals, civil rights requirements, and housing quality standards found in 24 CFR § 983.57(b) and other provisions of the Code of Federal Regulations, as well as other guidance from the Department of Housing and Urban Development. The MDOC PHA will not select a site until it "has determined that PBV assistance for housing at the selected site is consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities

The MDOC Project-Based VASH program is subject to all applicable requirements of the most current MDOC PHA Administrative Plan, including the requirements detailed below.

PBV Proposal Selection

Current HUD guidance provides two methods for PBV proposal selections: (1) issue a request for proposals, or (2) select a proposal based on a previous competition under a federal, state, or local government housing assistance, community development, or supportive services program [24 CFR 983.51].

If the PHA utilizes method 1, MDOC will provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the request for PBV proposals must specify the submission deadline. Detailed application and selection information will be provided at the request of interested parties [24 CFR 983.51].

If the PHA utilizes method 2, the PHA will select an eligible proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance [24 CFR 983.51(b)].

MDOC may directly contact specific owners that have already been selected for federal, state or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

PBV SITE SELECTION

MDOC will select sites according to guidance contained within 24 CFR 983.57. Any PBV proposal will only be considered by MDOC if the proposed site is consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities. Any PBV proposal and associated project site must be consistent with 24 CFR 903 and this administrative plan.

MDOC will assess the viability of a PBV proposal/site selection according to:

- Owner experience and capability to build or rehabilitate housing as identified in the proposal;

- Extent to which the project furthers MDOC's goal of de-concentrating poverty and expanding housing and economic opportunities;
- The extent to which services are provided on-site or in the immediate area for occupants of the property.

25 PERCENT CAP ON NUMBER OF PBV UNITS PER BUILDING

Exceptions to the 25 percent cap will be granted only if the units are excepted units in a multifamily building specifically made available for elderly or disabled families or families (qualifying families) receiving supportive services, per guidelines contained within 24 CFR 983.56.

MDOC staff will conduct annual on-site monitoring visits to assess and measure compliance with supportive services requirements.

PBV WAIT LIST

Applicants who will occupy units with PBV assistance must be selected from either the MDOC VASH (voucher) list, or the PBV (project-based voucher) list. MDOC will work closely with the PBV owner to ensure applicants are placed on the appropriate wait list (or both wait lists).

OWNER SELECTION (SCREENING) OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing conditions for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

WRONG-SIZE OR ACCESSIBLE UNITS

The owner will notify the family of the family's need to move based on the occupancy of a wrong-size or accessible unit within 15 days of the owner's determination. MDOC will offer the family an appropriate tenant-based voucher, based on availability of assistance.

VACANCY CLAIMS

MDOC will make vacancy claims if:

- The owner provides prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken very reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by MDOC to verify that the owner is entitled to the vacancy payment.

Vacancy payments will be subject to the requirements as defined under 24 CFR 983.352.

ANNUAL PLAN AMENDMENT CERTIFICATION

This amendment is in compliance with 24 CFR 903.7(r)(2)(ii) and 24 CFR 903.21. The inclusion of PBV in the MDOC Annual Plan does not alter the overall mission of the PHA, nor

does it significantly alter the customer base served, as MDOC currently administers a VASH Voucher program.

PROJECTED PBV UNITS

MDOC PHA limits PBV units to 75 per property/owner. Locations include Helena and any other location in the State where significant need is demonstrated.

MDOC Response: This comment has been addressed in Chapter 1 of the Admin Plan.